

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR  
PUERTO RICO,

As representative of

THE COMMONWEALTH OF  
PUERTO RICO, THE EMPLOYEE'S  
RETIREMENT SYSTEM OF THE  
GOVERNMENT OF THE  
COMMONWEALTH OF PUERTO  
RICO, AND THE PUERTO RICO  
PUBLIC BUILDINGS AUTHORITY,

Debtors.

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**OBJECTION TO PROPOSED CONFIRMATION ORDER  
AT DKT. NO. 18447**

Dated: October 22, 2021

**TO THE HONORABLE COURT:**

**COMES NOW** creditor Suiza Dairy Corp. (“Suiza”), through the undersigned counsel and, pursuant to Fed. R. Bankr. P. 3020, presents its Objection to the Proposed Confirmation Order (“Proposed Order”) proposed by the Financial Oversight and Management Board of Puerto Rico regarding the Seventh Amended Plan of Adjustment (the “Plan”), filed on October 8, 2021 at Docket No. 18,447.

Suiza filed a timely Objection to the Disclosure Statement on June 15, 2021. Dkt. 17,013. Suiza also filed a timely Objection to the Confirmation of the Seventh Amended Plan of Adjustment on October 19, 2021. Dkt. 18,593.

The Plan as filed, is in contravention of the Takings Clause of the Constitution of the United States in regards to Suiza’s claim against the Commonwealth, inasmuch as it impermissibly and unlawfully classifies and treats Suiza’s claim on account of a federal takings determination as subject to discharge under the d Plan provisions. On those grounds, the Plan is unconfirmable under 11 U.S.C. §944 as incorporated by Title III of PROMESA 48 U.S.C. §§ 2161-2177 and §314(3) of Title III of PROMESA, 48 U.S.C. §2174, which requires that any plan of adjustment not be proposed in contravention of any law. In the alternative, Suiza’s claim should be allowed in its entirety as a non-dischargeable claim against the Commonwealth and

Office of the Milk Industry Regulatory Administration (“ORIL” by its Spanish acronym), one of its instrumentalities.

Specifically, ¶3(B), ¶49(a), ¶50, ¶52 and ¶53 propose to discharge all claims against the Commonwealth and/or its instrumentalities and enjoin creditors from pursuing those claims, including Suiza’s constitutionally protected and non-dischargeable claim. See Dkt. 18,447 - p. 13 ¶(B); p. 45-46 ¶49(a); p. 50 ¶50; p. 51-52 ¶52; p. 52 ¶53.

Suiza reiterates the objections raised in the Objections filed at Dkt. 17,013 and Dkt. 18,593 and the oral arguments raised in the hearing of July 13, 2021, and incorporates them herein as if fully transcribed and requests that they be deemed raised as to the Proposed Order.

Since the Plan, as proposed is unconfirmable, the Proposed Order may not be adopted by the Court. In the alternative, pursuant to §944(c)(1) of the Bankruptcy Code, 11 U.S.C. §944(c)(1), made applicable to this proceeding pursuant to §301(a) of PROMESA<sup>1</sup>, this Honorable Court should except the regulatory accrual payments constituting Suiza’s claim from discharge.

**WHEREFORE**, Suiza most respectfully prays that the court DENY approval of the Seventh Amended Plan of Adjustment as filed, absent an amendment to the

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<sup>1</sup> 48 U.S.C.A. §2161

same by the Commonwealth classifying Suiza's claim as a non-dischargeable claim subject to a 100% distribution under the Plan, and surviving these proceedings.

### **NOTICE**

Within fourteen (14) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this motion has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, this motion will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

### **CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that this motion was electronically filed with the Court using the CM/ECF system which will notify the filing by electronic means to all parties of record.

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